

## Draft 2 - Revised Definitions

### Sunshine Reform Task Force

Public Meeting Provisions  
Revised "Draft 2" Definitions

***\*NOTE: The highlighted sections below identify the provisions previously reviewed and approved by the Task Force.***

#### Definitions

The following definitions used in this chapter have the meanings set forth below.

##### **1. Agenda.**

"Agenda" means a list of information about a meeting, including the identity of the policy body conducting the meeting, the time and location of the meeting, a meaningful description of each item of business to be transacted or discussed at the meeting, the proposed action for each item and a list of the documents that have been or will be provided to the policy body in connection with each item.

*Note: The concept that the purpose of the ordinance is "to facilitate public participation in the deliberative process" will be stated in the "Purpose" section of the ordinance.*

##### **2. Agenda packet.**

"Agenda packet" means agendas of meetings and any other documents that have been or are intended to be distributed to a policy body or an ancillary body in connection with a matter anticipated for discussion or consideration at a public meeting. The agenda packet must include:

- A. Any contract terms, agreement, letter of intent or memorandum of understanding, including any amendment or modification thereto, that is submitted to the policy body for approval.
- B. Any memorandum prepared by a member of the policy body, City staff or Council staff pertaining to a matter to be considered by the policy body at the meeting.
- C. The report of any outside consultant, advisor, contractor or attorney that will or may be considered by the policy body in taking action on any item on the agenda for the meeting.
- D. The agenda packet need not include any material exempt from public disclosure under this chapter.
- E. If a document distributed or intended to be distributed in connection with a matter on the agenda is more than fifteen pages, it must be made available for public inspection and copying at a location indicated on the agenda during normal office hours and available on the City's website.

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#### 3. Ancillary body.

##### ***DISCUSSED IN ATTACHMENT A***

#### Previous Definition (11/17/06)

"Ancillary body" means:

- A. Committees or other bodies created by and to serve as an advisor to a member of a policy body, the Mayor, a City Councilmember, the Mayor's Chief of Staff, the Mayor's Budget and Policy Director, the City Manager, the City Attorney, the City Clerk, the City Auditor, the Independent Police Auditor, the Executive Director of the San Jose Redevelopment Agency or a Department Head.
- B. Any non-governmental entity, including but not limited to any board, commission, private corporation, whether for-profit or non-profit:
  - 1. Which owns, operates or manages property in which the City has a majority interest; and
  - 2. To which a policy body has delegated authority for:
    - (a) Health and safety;
    - (b) The direct or indirect expenditures of City funds in excess of \$100,000; or
    - (c) A change in land use.
- B. Ancillary body does not include any committee or body that consists solely of City staff.

#### 4. City.

"City" means the City of San Jose, California.

#### 5. City staff.

"City staff" means Council appointees, Department heads and all employees of Council appointees and Department heads.

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#### **6. Council appointees.**

"Council appointees" means the City Manager, the City Attorney, the City Clerk, the City Auditor, the Independent Police Auditor, the Executive Director of the San Jose Redevelopment Agency and any other person appointed by the Council pursuant to the Charter.

#### **7. Council staff.**

"Council staff" means all employees of the City Council and the Mayor.

#### **8. Department Head.**

"Department head" means the director or head of the various City offices or departments.

#### **9. Meetings.**

"Meeting" means:

- A. A congregation of a majority of the members of a policy body at the same time and place to discuss or deliberate any matter that is within the jurisdiction of the City. A meal gathering of a policy body before, during or after a meeting of the policy body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion. Such meetings shall not be conducted in restaurants or other locations where public access is possible only by making a purchase or some other payment.
- B. A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of the members of the policy body has become involved in such gatherings. A series of gatherings may occur by use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of a policy body.
- C. Meeting does not include:
  - 1. Individual contacts or conversations between a member of a policy body and another person that do not convey to the member of the policy body the views or positions of other members of the policy body upon the subject matter of the contact or conversation and in which the member of the policy body does not solicit or encourage the restatement of the views of the other members of the policy body.

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2. The attendance of a majority of the members of a policy body at a regional, state or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members of a policy body do not discuss any item within the subject matter jurisdiction of the City.
3. The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion, provided that a majority of the members do not discuss any item within the subject matter jurisdiction of the City.
4. The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of the policy body, provided that the members of the policy body who are not members of the standing committee attend only as observers or as members of the public.

#### **10. Policy body.**

"Policy body" means:

- A. The City Council, the Board of the City Redevelopment Agency, the San Jose Financing Authority, the San Jose Clean Water Financing Authority, the San Jose Parking Authority and all committees or other bodies of the City Council or the Board of the San Jose Redevelopment Agency, whether permanent or temporary, decision making or advisory.
- B. All boards and commissions established pursuant to the City Charter.
- C. All commissions, boards, committees or other bodies created by ordinance, resolution or other formal action of the City Council, the Board of the San Jose Redevelopment Agency, the San Jose Financing Authority, the San Jose Clean Water Financing Authority, the San Jose Parking Authority or any other policy body.
- D. Committees comprised of City council staff that together represent a quorum of the City Council.
- E. A board or other multimember body that governs a private corporation, limited liability company, or other entity that either:
  1. Is created by a policy body in order to exercise authority delegated to it by that policy body;

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2. Exists primarily to exercise authority that has been delegated to it by a policy body; or
3. Receives funds from the City and has on its governing body a member of a policy body or that member's designee with full voting rights.

## **Attachment A**

### **Discussion on Definition of Ancillary Bodies**

## DISCUSSION ON DEFINITION OF ANCILLARY BODY

### A. Some Language Has Already Been Approved By The Task Force.

The Task Force already approved the following language for the definition of ancillary body:

“Ancillary body” means:

Committees or other bodies created by and to serve as an advisor to a member of a policy body, the Mayor, a City Councilmember, the Mayor’s Chief of Staff, the Mayor’s Budget and Policy Director, the City Manager, the City Attorney, the City Clerk, the City Auditor, the Independent Police Auditor, the Executive Director of the San Jose Redevelopment Agency or a Department Head.

Ancillary body does not include any committee or body that consists solely of City staff.

### B. Should Other Entities Be Included in the Definition of Ancillary Body?

The remaining issue is whether any other entities should be included in the definition of ancillary body.

#### What other types of groups does the Task Force intend to capture?

The attorneys understand that the Task Force is trying to ensure that if a **non-governmental entity makes policy decisions that the City would otherwise be making**, then it should be considered an ancillary body.

The attorneys also understand that if the City delegates authority only for administrative decisions, then the Task Force does not intend for those entities to be considered ancillary bodies.

Is this correct?

### C. Key Questions from the City Manager’s Office

1. When the City delegates authority to an entity, should a distinction be made in the purpose?
  - a. Outsourcing a basic City service under a detailed contract e.g., purchase of garbage, towing, street cleaning.
  - b. Funding a discretionary program e.g., arts and entertainment, recreational services with neighborhood involvement.
2. Does it address the Task Force’s concern if an ancillary body is required to bring policy discussion before the parent granting policy body on a routine basis i.e., to address the difficulty for small groups with limited staff and the interested public to access meeting site, post agendas, take minutes, provide agenda materials.